

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

PHONG NGUYEN,

Petitioner,

v.

CIVIL ACTION NO. 5:21-cv-00676

D. L. YOUNG,

Respondent.

**ORDER**

Pending are Petitioner Phong Nguyen’s Petition for a Writ of Habeas Corpus [Doc. 1], filed on December 29, 2021, and Respondent’s Motion to Dismiss [Doc. 6], filed on February 23, 2022. This action was previously referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Eifert filed her PF&R on May 17, 2022. Magistrate Judge Eifert recommended that the Court deny the Petition for Writ of Habeas Corpus [Doc. 1], grant the Request for Dismissal [Doc. 6], and this matter be dismissed and removed from the docket of the Court.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-*


*Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on June 3, 2022. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 8**], **GRANTS** the Motion to Dismiss [**Doc. 6**], **DISMISSES** the Petition for Writ of Habeas Corpus [**Doc. 1**], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: June 30, 2022



  
Frank W. Volk  
United States District Judge